

**R590. Insurance, Administration.**

**R590-176. Health Benefit Plan Enrollment.**

**R590-176-1. Authority.**

The commissioner's authority to promulgate this rule is provided in Sections 31A-2-201(3) and 31A-2-202(2).

**R590-176-2. Purpose and Scope.**

The purpose and scope of this rule is to provide enrollment requirements under Section 31A-30-108 for carriers who provide health benefit plan coverage to individuals and small employers as stated in Section 31A-30-104.

**R590-176-3. Definitions.**

(1) The definitions in Sections 31A-1-301 and 31A-30-103 apply to this rule.

(2) ~~["Carrier" means a covered carrier as defined in Section 31A-30-103.~~

~~(3)]~~ "Time period" means the period such as daily, weekly or monthly, as determined by the carrier, in which applications are grouped.

**R590-176-4. General Provisions.**

(1) Any attempt to selectively or unfairly delay, obstruct or otherwise hinder any person from obtaining coverage under Chapter 30 is a violation of Section 31A-30-108.

(2) Enrollment shall be equally available through all distribution systems ~~[, classes of business, and rating criteria categorizations].~~

~~(3) [Enrollment is available to small employers without respect to whether any eligible employee or dependent is classified as uninsurable.~~

~~(4) The enrollment residency requirements do not supersede other dependent and child requirements of the Insurance Code.~~

~~(5) When requested, a carrier must offer a Utah NetCare Plan in compliance with Section 31A-30-109.~~

~~(6)]~~ A carrier may not market or encourage producers to market individual or small employer health benefit plans in such a way that there is a lessened incentive to insure business with greater health risks.

~~[(7) Commission schedules shall be structured in compliance with R590-207, Health Agent Commissions for Small Employer Groups.~~

~~(8) The carrier shall retain a signed statement from each covered small employer that the carrier offered to accept all eligible employees and their dependents at the same level of benefits under the health benefit plan provided to the employer.~~

~~(9) An individual or small employer is considered uninsured if the individual or small employer:~~

~~(a) does not have a health benefit plan; or~~

~~(b) health benefit plan is with a carrier that has made an election under Subsections 31A-8-402.3(3)(e), 31A-8-402.5(3)(e), 31A-22-721(3)(e), 31A-30-107(3)(e), or 31A-30-107.1(3)(e).~~

~~(10)]~~ (4) All records regarding enrollment applications and underwriting determinations shall:

(a) be retrievable for examination by the time period the application was received;

(b) include all documents, indicating the applicable date, pertaining to the application and its underwriting; and

(c) be retained for the current year plus three years.

~~[(11)]~~ (5) The documents indicated in Subsection ~~[(10)(b)]~~ (4)(b) would include:

(a) application and date received,

(b) notifications to the applicant and the date of notification;

(c) records used in underwriting and date received; and

(d) underwriting decision and date of decision.

#### **R590-176-5. Application and Enrollment.**

(1) ~~[An individual]~~ Each carrier shall establish a procedure to determine the order of applications. The procedure shall group the applications into consistent time periods. ~~[The enrollment cap may not be applied until the end of the time period in which it is met.]~~ The ~~[individual]~~ carrier shall keep a record of all applications for coverage that includes the time period an application is received by the carrier.

(2) All applications shall be treated consistently.

(3)(a) A complete application shall be processed and a written notice of the decision communicated to the applicant within 30 days of the decision. ~~[If an application is denied, the decision must include specific details explaining the denial.]~~

(b) The carrier may not require that an application be complete in order to qualify as an application for coverage.

(c) If an application is incomplete, within 15 days from receipt of the application, a carrier shall notify the applicant of the areas that are incomplete and the information required to complete the application.

(d) Before an application can be ~~[filed]~~ rejected as incomplete, applicants shall have at least 30 days, after being notified additional information is required to provide the information.

~~[(e) A date earlier than the postmarked date of the notice in Subsection (3)(c), may not be used as the date of notification.]~~

~~(4) The acceptance of an application may not be delayed pending the receipt of medical records. This does not apply to other required statements from applicants as provided in Subsection (3).]~~

#### **R590-176-6. ~~[Small Employer Enrollment]~~**

~~A small employer carrier shall:~~

~~(1) permit an eligible employee, or a dependent of such employee, to enroll for coverage under the terms of the plan, if the eligible employee requests enrollment not later than 30 days after the eligibility date; and~~

~~(2) enroll a new eligible employee and a dependent of such employee making timely application for coverage in a small employer group with existing coverage.~~

#### **R590-176-7. ~~Individual Underwriting Criteria~~**

~~(1) Each carrier shall determine the number of individuals classified as uninsurable at initial enrollment. This determination~~

~~shall be made in accordance with this rule.~~

~~— (2) An individual insured by the Utah Comprehensive Health Insurance Pool is classified as uninsurable.~~

~~— (3) (a) An individual may be classified as uninsurable if the individual has:~~

~~— (i) one or more medical conditions; or~~

~~— (ii) one or more prescriptions; and~~

~~— (iii) the conditions, prescriptions, or both, are determined to have a total number of debit points equal to or greater than 99 debit points in the aggregate consistent with the Milliman Health Cost Guidelines - Small Group Medical Underwriting, June 2008, taking into account;~~

~~— (A) elapsed time;~~

~~— (B) additional criteria; and~~

~~— (C) exception criteria.~~

~~— (b) A carrier may not take into account conditions for which coverage is not provided. This includes conditions excluded as a pre-existing condition for which treatment is expected during the exclusion period if the applicant would not be considered uninsurable after the treatment.~~

~~— (4) Determinations made by a carrier under Subsection (3) (iii) will be audited by an experienced independent underwriter retained by the board of the Utah Comprehensive Health Insurance Pool who will rely on the Milliman Health Cost Guidelines - Small Group Medical Underwriting, June 2008, to evaluate whether the debit points of the medical conditions, prescriptions, or both are equal to or greater than 99 debit points in the aggregate.~~

~~— (5) A carrier may appeal a determination by the auditor under Section (4) that an individual has a combination of conditions, prescriptions, or both, that cause that individual to have debit points less than the number of debit points determined under Section (3) to the commissioner. The commissioner may appoint a designee to review these appeals.~~

~~— (6) Only individuals enrolling under Subsection 31A-30-108(3) may be counted as uninsurable.~~

#### **~~R590-176-8. Individual Carrier Enrollment Cap Calculation and Certification.~~**

~~— (1) Pursuant to Section 31A-30-110, an individual carrier may not decline enrollment until the carrier has:~~

~~— (a) met its enrollment cap; and~~

~~— (b) submitted a certification to the department in compliance with this section.~~

~~— (2) An individual carrier may limit enrollment after submitting its certification.~~

~~— (3) The commissioner may require additional enrollment after reviewing the certification.~~

~~— (4) An officer of the individual carrier shall submit a certification that:~~

~~— (a) lists the UC and CI as defined in Section 31A-30-103(28);~~

~~— (b) lists the number of individual natural covered lives at the time of the certification;~~

~~— (c) categorizes the UC into new applicants added to existing~~

~~policies and newly issued policies;~~

~~— (d) identifies the number of Comprehensive Health Insurance Pool participants; and~~

~~— (e) identifies the qualifying conditions, prescriptions, or both that cause the persons making up the carrier's UC to be considered uninsurable under Section 31A-30-106(1) and Rule R590-176.~~

~~— (5) Carriers, whose coverage count exceeds 200% of the coverage count as of the end of the prior year, shall determine the uninsurable percentage using counts as of the end of the most recent calendar quarter.~~

**~~R590-176-9. Solvency Waiver.~~**

~~— A carrier that expects the requirements of Chapter 30 to place the carrier in supervision, insolvency or liquidation shall, within 15 days of such determination, submit a report to the commissioner. The report shall detail the financial consequences of Chapter 30 and request the specific waivers or modifications required to prevent supervision, insolvency or liquidation.~~

**~~R590-176-10. Enforcement Date.~~**

~~— The commissioner will begin enforcing the revised provisions of this rule 45 days from the rule's effective date.~~

**~~R590-176-11.] Severability.~~**

If any provision or clause of this rule or its application to any person or situation is held invalid, such invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

**KEY: health insurance**

**Date of Enactment or Last Substantive Amendment: [October 3, 2012] 2014**

**Notice of Continuation: December 19, 2011**

**Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-2-202**